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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,271	04/05/2001	Vijayan Rajan	103.1063.01	6350
22883	7590	09/20/2005	EXAMINER	
SWERNOFSKY LAW GROUP PC P.O. BOX 390013 MOUNTAIN VIEW, CA 94039-0013			VO, LILIAN	
			ART UNIT	PAPER NUMBER
			2195	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/828,271	Applicant(s) RAJAN ET AL.	
	Examiner Lilian Vo	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 24 and 26 - 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 24 and 26 - 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1 – 24 and 26 - 29 are pending. Claim 25 has been cancelled.

#### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/29/05 has been entered.

#### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 5, 6, 11, 12, 17, 18, 23 and 24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of copending Application No. 10/829,718.

Although the conflicting claims are not identical, they are not patentably distinct from each other. The examiner can ascertain no difference between the claims of the present application and that of copending Application No. 10/829,718. It is noted that the minor difference encompass replacement of the recitation of the limitations in the claims and it appears to be substantially the same or duplicate or in some instance obvious over one another. For example, claims 1, 5, 6, 11, 12, 17, 18, 23 and 24, functions performed by the steps are the same and obvious as the steps of claims 1 and 2 of copending Application No. 10/829,718.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 –24 and 26 - 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zolnowsky (US 6,779,182).

7. Regarding **claim 1**, Zolnowsky discloses a method including:

scheduling tasks from a set thereof for running on a plurality of processors, each processor having access to a shared resource (fig. 5, col. 3, lines 65 - 66), wherein each task of the set of tasks is associated with one of a plurality of scheduling domains (col. 4, lines 9 – 12:

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each processor's dispatcher can select to execute threads from its own queue), at least one scheduling domain being associated with at least two tasks of the set of tasks (col. 4, lines 9 – 12, col. 6, line 66 – col. 7, line 3); and wherein tasks within each scheduling domain can be run on different processors (col. 4, lines 9 – 12, col. 8, lines 24 – 35: processor can execute threads that are from different queue); and

allowing a plurality of tasks of the set of tasks to run concurrently in different scheduling domains (col. 1, lines 17 – 23, abstract: threads in different run queues can run concurrently by different processors).

With respect to scheduling domains, Zolnowsky discloses a plurality of run queues, each contains threads to be scheduled for execution. With respect to the limitation in which task within each scheduling domain are prohibited from running concurrently, Zolnowsky suggests that threads in the same run queue are not running concurrently on the same processor because the processor can select another thread to run after it become available, meaning finish execute the current thread (col. 8, lines 24 – 42). Therefore, it would have been obvious to one of an ordinary skill in the art that Zolnowsky does not execute threads from the same run queue concurrently on the same processor.

8. Regarding **claim 2**, Zolnowsky discloses a method of claim 1, including changing said association for at least one task from a first to a second scheduling domain (col. 4, lines 5 - 12).

9. Regarding **claim 3**, Zolnowsky discloses a method of claim 1, including selecting for running at least one task associated with a plurality of said scheduling domains (col. 4, lines 9 - 12).

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10. Regarding **claim 4**, Zolnowsky discloses a method of claim 1, including selecting for running at least one task not associated with any one of said scheduling domains (col. 8, line 50 – col. 9, line 21, fig. 8).

11. **Claims 5 – 9** are rejected on the same ground as stated in claims 1 – 4 above.

12. Regarding **claim 10**, Zolnowsky discloses the scheduler includes a plurality of runnable queues, one per scheduling domain (fig. 5).

13. **Claims 11 – 24 and 26 - 29** are rejected on the same ground as stated in claims 1 – 4 and 10 above.

#### *Response to Arguments*

14. Applicant's arguments with respect to claims 1, 5, 6, 11, 12, 17, 18, 23 and 24 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist at 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lilian Vo  
Examiner  
Art Unit 2195

lv  
September 13, 2005

  
MENG-AL T. AN  
SUPERVISORY PATENT EXAMINER  
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